

**RICHMOND POLICE DEPARTMENT GENERAL ORDER**

NOTE: This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be constructed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Chapter 6	Number 4	Effective Date 08/04/09	Review Date 2012
Subject VIRGINIA UNIFORM SUMMONS			☐ New Order ☒ Replaces G.O. 6-4, (01/25/05)
References <i>CALEA 82.2.2, 82.3.4a, 82.3.4b and 82.3.4c</i> <i>VLEPSC ADM.02.03, ADM.25.01e, ADM.25.12, OPR.04.02b, OPR.07.03a, OPR.07.03b</i> <i>VA Code 46.2-388 (effective 7/01/07), 18.2-266, 18.2-388, 18.2-407, 19.2-74, 19.2-81, 19.2-390, 19.2-390.01, 46.2-936 and 46.2-388</i> <i>General Order 1-14, 6-3</i>			
 _____ Chief of Police or Designee		08/04/09 _____ Date	

I. PURPOSE

The purpose of this *directive* is to establish the policy and procedure for completing, issuing and *distributing* Virginia Uniform Summons in traffic and criminal-related matters. This directive consists of the duties and responsibilities for members of the Department.

II. POLICY

It is the policy of the **Richmond Police** Department to *fully* comply with State law as it pertains to the issuance *of* Virginia Uniform Summons and the release of individuals from police custody.

III. ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this general order. Failure to comply will result in appropriate corrective action. Responsibility rests with the Division Commander to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated.

IV. PROCEDURE, ROLES AND ACCOUNTABILITY**A. Issuance and Service of Summonses in Place of Warrants:****1. Release on *a* Summons:**

- a. VA Code §19.2-74 as amended, concerns the issuance and service of summonses in place of warrants in misdemeanor cases and requires that whenever any person is arrested for a misdemeanor violation, except as provided for in VA Code §18.2-266, 18.2-388 or Title 46.2 as amended, the arresting officer shall establish the identity of the person to include the name and address. The arrested person shall then be notified, in writing, to appear at a time and place to be specified on the summons. Once the person has given his/her written promise to appear at such time and place, the officer shall forthwith release the person from custody.
 - b. Any person so summoned shall be released from custody immediately after signing the summons. A Central Criminal Records Exchange (CCRE) form will be completed using information from the summons. (VA Code 19.2-74 prohibits holding the suspect for purposes of completing the CCRE requirements). The CCRE and the summons are to be turned in *at the precinct summons box* before the officer's end of tour (EOT) of duty.
 - c. VA Code §19.2-74 applies only to misdemeanor violations that occur in the presence of the arresting officer, any other misdemeanor for which an arrestee may receive a jail sentence, an arrest on a warrant *that* charges an offense for which a summons may be issued, *or* when specifically authorized by the judicial officer issuing the warrant.
2. Situations when *a* summons will not be issued - (Officers will proceed to the Magistrate in the following cases):
 - a. Class 1 or 2 Misdemeanors and all other jailable offenses *when*:
 1. The officer believes that the accused is likely to disregard the summons;
 2. The officer believes that the accused is likely to cause harm to himself/herself or others;
 3. The accused fails to give written promise to appear; or,
 4. The accused fails to or refuses to discontinue the unlawful act.
 - b. Class 3 or 4 Misdemeanors and all other non-jailable offenses *when*:
 1. The accused fails to give written promise to appear;
 2. The accused fails to or refuses to discontinue the unlawful act;
 3. The accused has been charged with a violation of VA Code §18.2-266 (Driving Under the Influence), §18.2-388 (Drunk in Public) or §18.2-407 (Unlawful Assembly); or,

4. The accused is unable to reasonably establish his/her name and address.
 3. Under VA Code §19.2-74, the police officer must issue a summons unless one of the situations above exists. If the officer takes the accused before the Magistrate, the Magistrate becomes solely responsible for deciding if probable cause exists. If the Magistrate orders the release of the accused, the individual must be released immediately.
 4. The officer shall not issue a summons after the Magistrate orders the release of the accused. Issuing a summons at this point may be construed as an act of malfeasance and may give rise to civil liability.
 5. If the police officer believes probable cause exists, but the Magistrate has refused to issue a warrant, the officer may call a supervisor. The supervisor shall respond and review the officer's probable cause. If the supervisor **believes that** the officer has sufficient probable cause, the supervisor shall contact the Chief Magistrate by pager. The Chief Magistrate will review the situation and make a determination whether or not the warrant should be issued.
 6. If the warrant is not issued and the officer and supervisor **believe** there is sufficient probable cause, the officer may contact the Commonwealth's Attorney's Office to request that a Grand Jury indictment be sought.
 7. If at any time the officer develops additional information after the officer first appeared before the Magistrate, the officer may request a warrant based on the new information from a different Magistrate.
- C. Arrest Procedure involving the use of the Virginia Uniform Summons for a Warrantless (On-View) Misdemeanor Arrest:
1. The **arresting** officer shall:
 - a. Determine if the accused is to be placed on a summons, taking into account the criteria listed above;
 - b. First compile the summons, **completely filling in the summons and checking for accuracy. Officers shall sign the summons with their full name and code number;**
 - c. After completely filling in the summons, have the accused sign the summons, provide the accused with the Page 3, Defendant's Copy (yellow copy) and release **the accused** from custody immediately;
 - d. Compile the Incident-Based Report (IBR) and the Arrest Worksheet;
 - e. **Turn the summons and CCRE in at the precinct summons box before the officer's EOT;** and,
 - f. Retain the Officer's copy (green copy) in the Summons Book.

D. **Completing** the Virginia Uniform Summons:

1. **The arresting officer shall** place only one charge on **a** summons;
2. If the **suspect** requests an immediate hearing, one will be scheduled within 24 hours, excluding weekends, holidays **or** other times when advised **that** the court will not be in session. In this case, the arresting officer shall attach the agency copy of the summons to the Arrest Worksheet **and** hand carry the copy of the Arrest Worksheet and a copy of the summons to the Police Warrant and **Information Services Unit**, prior to the arresting officer's end of tour of duty and log it into the Court Summons Book. **The arresting officer shall** also hand carry the Arrest Worksheet and the original summons to the proper Court Clerk, prior to trial.
3. The City box shall always be checked directly underneath the date of appearance for the defendant;
4. On the line between the words "Law Section" and "Describe Charge", the officer shall write, "102-2" as the Code;
5. On the next line down, the officer shall write the Offense (i.e. speeding, disregarding a regulatory sign, etc.). Then, in parenthesis, the officer shall write the appropriate section of the State Code;
6. Officers are reminded to write the full name of the defendant, any witness and the officer's name in the appropriate sections of the summons;
7. Officers shall list any related Incident Number directly underneath the words "Virginia Uniform Summons" at the top of the form and NOT in the case number slot (top right hand corner). The Case Number is reserved for Court Clerks and their tracking system.
8. Include the Virginia Crime Code (VCC) reference as required by VA Code Section §19.2-390.01 for each jailable offense:
 - a. Ex: 18.2-415 (Disorderly Conduct) VCC: DIS-5311-M1
 - b. Ex: 46.2-300 (Drive without a license) VCC: LIC-6808-M2
9. Check "Yes" or "No" as to whether the defendant has a Commercial Driver's License (CDL); and,
10. Complete line whether the offense resulted in a fatality.

E. Procedure for Arrest on a Misdemeanor Warrant:

1. **Arresting officers** shall not release a **suspect who** has been arrested on a warrant, unless the warrant indicates that the release is permitted at the officer's discretion. The criteria listed **earlier in this general order for a discretionary release** shall be taken into consideration.

2. ***The arresting officer shall*** compile the Arrest Worksheet. No fingerprints or photographs shall be taken at this time.
3. If the ***suspect*** is to be released on a summons, ***the officer shall*** complete the summons portion of the warrant. The name and address of the court shall be filled in, both on the court's copy and defendant's copy of the summons. The officer shall have the ***arrestee*** sign the summons where indicated and provide the ***arrestee*** with the defendant's copy.
4. If the warrant is on file with the Warrant and Information ***Services Unit*** and release at the officer's discretion is permitted, the warrant will be transported to the arresting officer's location by an available unit. If no unit is available, the arresting officer shall request permission from the officer's supervisor to transport the ***arrestee*** to the Warrant and ***Information Services Unit*** to serve the warrant.
5. The original arrest warrant, with the summons portion completed, shall be attached to the Arrest Worksheet (Copy 1), hand-carried by the arresting officer to the Warrant and ***Information Services Unit*** and logged in to the Court Summons Book, prior to the officer's end of tour.
6. If the warrant has an IBR number, the officer shall complete the Dual Purpose form. If the warrant does not have an IBR number, the arresting officer must complete an IBR.

NOTE: It is understood the warrant may not have all the information required for the IBR.

F. Special Considerations ***for an Arresting Officer:***

1. VA Code §19.2-81 allows police officers to ***make an*** arrest without a warrant for an alleged misdemeanor offense not committed in the officer's presence. When the officer receives a radio message that a warrant is on file ***for the arrestee***, the officer ***shall*** verify that ***the*** warrant is on file ***and*** that the person in question is the same party named in the warrant. The warrant should not be served, if there is any doubt that the person in question is not the same party named in the warrant.
2. In circumstances where an individual is charged with a misdemeanor offense and not released on a summons, a notation shall be made ***by the arresting officer*** on the reverse side of the first copy of the Arrest Worksheet explaining the rationale ***for the non-release***.
3. When making arrests ***for*** shoplifting, all ***officers*** shall ***perform*** the following:
 - a. Check for prior convictions;
 - b. Compile an Arrest Worksheet;
 - c. Compile a Virginia Uniform Summons, if appropriate;

- d. Compile an IBR; and,
- e. Establish reasonable identity of the arrested party.

- 4. **Officers**, who transport **an** arrestee in arrest situations for Special **Conservators of the Peace (SCOP) or Registered Security Officers (RSO)**, shall ensure **that** the **SCOP's or RSO's** action complies with the law and that they have properly executed the necessary forms. Before transporting the arrestee, **officers** shall take into account the criteria listed in **General Order 1-14, Special Conservators of the Peace/Registered Security Officers**.
- 5. When a misdemeanor and **a** felony arrest occur at the same time, the officer may release the **suspect** for the misdemeanor charge and set the **arrestee's** court date for the next date **that the** court is in session. The Magistrate will set the arraignment date for the **arrestee's** felony **charge** for the next day **when the** court is in session. The officer will not be required to attend the **arrestee's** arraignment hearing. The court will notify the officer of the **arrestee's** hearing/trial date. The arrested party shall remain in custody.
- 6. Traffic-Related Cases – Refer to **General Order 6-3, Stopping Motorists**.

G. Arrests on Warrants:

- 1. Persons arrested on a warrant for misdemeanor traffic violations when no felonies were committed, will be served with the warrant and summoned to court on a Virginia Uniform Summons. No Arrest Worksheet is to be compiled for this type of arrest. A copy of the warrant and **the** court copy of the summons will be turned in to the Warrant and **Information Services Unit** and logged in to the Court Summons Book prior to the end of the officer's tour of duty.
- 2. When a person **is** charged with a misdemeanor traffic violation **and he/she** requests an early hearing, the following procedures will apply:
 - a. Prior to court convening, **the officer shall** hand-carry the Virginia Uniform Summons to the Court Clerk. The remaining copies **of the summons** are to be placed in the Summons Box **at the appropriate** Precinct.
 - b. **The officer shall** hand-carry the Traffic Court's copy of the Virginia Uniform Summons to the Traffic Court Clerk at least 20 minutes prior to court convening.
- 3. If a person is charged with Driving Under the Influence, Driving with No Operator's License or Driving While Operator's License is Suspended or Revoked, the following procedures are to be followed:
 - a. If the accused is released on a summons, the officer **shall** check the appropriate areas on the agency's copy of the Virginia Uniform summons. If the accused is placed on a warrant, the officer shall fill out **the** Division

of Motor Vehicles (DMV) Form, DIR 15 Enforcement Officer's Driver Record Request and forward the form to the Traffic Unit to be forwarded to DMV.

- b. Officers are not to issue subpoenas for DMV staff to appear in court.
- c. Instead of subpoenas, ***the officer shall*** use the agency's copy (for Data Operations) of the traffic summons or the Enforcement Officer's Driver Record Request Form (DIR 15) ***and*** write the words "Request Supporting Documents" on the side of the form.
- d. ***In addition, the officer shall*** always include the offense date and trial date, ***listing*** the offense date below the trial date ***on the agency's copy of the traffic summons or the Enforcement Officer's Driver Record Request.***
- e. If ***a*** case is for the General District Court, Traffic Division II (Manchester), ***the officer shall*** write "South" on the form under the "Request Supporting Documents" wording.
- f. The trial date ***shall be*** set one-month in advance.
- g. ***The*** DMV's court documentation information will be sent to the Commonwealth's Attorney's Office.
- h. If a case is continued, the Richmond Commonwealth's Attorney's Office will house the supporting documents and call DMV, if any additional information is needed.

H. Arrest Records:

- 1. The Virginia Uniform Summons will be utilized when reporting violations pursuant to VA Code §46.2-936, §46.2-388 and §19.2-74.
- 2. A Form SP-180 (CCRE Arrest Record) will be filed on all criminal arrests under VA Code §19.2-390.
- 3. A Form SP-180 will be filed ***in*** Hit & Run Personal Injury ***cases.***

I. Distribution of Copies ***of the*** Virginia Uniform Summons:

Copies of the Virginia Uniform Summons for Traffic related arrests shall ***be*** distributed as follows:

- 1. Page 1 (White Copy) Court Copy
- 2. Page 2 (White Copy) DMV Copy
- 3. Page 3 (Yellow Copy) Defendant/Witness Copy - Give to the defendant/witness

4. Page 4 (White Copy) DMV Copy for Records
5. Page 5 (White Copy) Agency Copy (for Data Operations)
6. Page 6 (Green Copy) Officer's Copy - Keep Page 6 in the Summons Book for the officer's records for a period of one year.

NOTE:

- For Traffic Arrests and Witnesses - The officer shall place the remaining White Copies (Pages 1, 2, 4 and 5) in the Summons Box in the Division/Precinct in which he/she is assigned prior to the end of the officer's tour of duty.
- For Criminal Misdemeanor Arrests - The completed summons shall be attached to the Arrest Worksheet (Copy 1) and hand delivered to the Warrant and **Information Services Unit** prior to the end of the officer's tour of duty and logged into the Court Summons Book.

J. **The** Traffic Unit's Desk Clerk **shall**:

1. Send Pages 1 and 2 **of the Virginia Uniform Summons** (original and second pages) to the proper courts;
2. If a record check is requested, send Page 4 (DMV's Record Request Page) to DMV; **and**,
3. Send Page 5 (Agency Copy) to the Data Operations Section of the Records and Technology Division.

K. Warrant and Information **Services Unit** Mail Personnel **shall**:

1. **For criminal charges**, send Pages 1 and 2 (original and second page) to the proper court along with the Arrest Worksheet (Copy 2);
2. Destroy **the** DMV Request for Driver Record (Page 4, DMV's Record Request Page); **and**,
3. Send Page 5 (Agency Copy) to the Data Operations Section of the Records and Technology Division.

L. Codes Used for **the** Virginia Uniform Summons:

1. Race of Defendant, using the following abbreviations:

W	White		B	Black
I	American Indian or Alaskan Native		J	Japanese
C	Chinese		O	All Others

*If of Hispanic origin, indicate by placing H adjacent to the "Race" block.

2. Eyes - Record the color of eyes, using NCIC abbreviations:

BLU	Blue		BRO	Brown
GRY	Gray		GRN	Green
HAZ	Hazel		PNK	Pink
BLK	Black		MAR	Maroon
XXX	Unknown			

3. Hair - Record the color of natural hair, using NCIC abbreviations:

BAL	Bald		BLK	Black
BLN	Blond or Strawberry		BRO	Brown
GRY	Gray or partially gray		RED	Red
SDY	Sandy		WHI	White
XXX	Unknown			

M. ***Duties of the Property & Evidence Unit:***

1. The Property & Evidence Unit is responsible for maintaining a supply of Virginia Uniform Summons Books for the Richmond Police Department;
2. The Property & Evidence Unit is responsible for requisitioning and purchasing additional Summons Books, as deemed necessary;
3. All newly printed Summons Books will be delivered directly to the Property & Evidence Unit; ***and***,
4. The Property & Evidence Unit will record the numbers from the summonses in a logbook. Each supervisor who picks up the ***Summons' Books*** will sign the logbook in the Property & Evidence Unit.

N. Duties for the Officers-In-Charge (OICs) of Divisions/Precincts/Units:

1. OICs who need Summons Books will direct a supervisor to the Property & Evidence Unit to pick them up. The OIC of the Property & Evidence Unit will issue the appropriate number of cases to the ***designated*** supervisor or ***a*** designee. ***Property & Evidence Unit's*** logbook will include the Summons Numbers for the ***affected*** Division/Precinct/Unit receiving the Summons Books ***along with*** the printed name and signature of the ***designated*** supervisor ***or designee*** receiving the books.

NOTE: When picking up the Summons Books all supervisors or designees will have to sign the ***Property & Evidence Unit's*** logbook.

2. All Division/Precinct Commanders will keep an adequate supply of Summons Books available. The OIC of each Division/Precinct/Unit shall provide a secure place for the storage of the Summons' Books and a ***related*** logbook for maintaining an accurate accounting of the Summons Books ***locations***.
- O. This logbook shall contain the following information:
1. The beginning and ending numbers of each book issued;
 2. The date of issuance;
 3. ***The officer's signature and initials*** to whom ***the Summons Book is issued***;
 4. The issuing supervisor's signature (not initials);
 5. Date of return of completed Summons Book(s) by the affected officer(s);
 6. Receiving supervisor's name; and,
 7. Date sent to Central Records for destruction.
- P. Duties and Responsibilities of ***the*** Officers Receiving Summons Books:
1. Each officer shall be responsible for providing security for all of ***the*** numbered summonses received;
 2. The Green Copies (Officer's Copies) of the summonses shall remain in the Summons Book and not be removed;
 3. When releasing ***an arrestee*** on a summons, the officer shall place the Summons Number, located in the upper (left or right) corner of the summons, on the Arrestee's Page of the Incident Based Reporting Report (IBR) next to ***the "Type of Arrest" Section***;
 4. Any summons which is voided by an officer must have the reason for its non-issuance noted upon the summons and all copies shall remain in the Summons Book ***until the Summons Book is turned in to the affected supervisor***.
 5. Officers shall turn in all issued summonses (Pages 1, 2, 4 and 5) prior to the end of the arresting officer's tour of duty. The Traffic Unit and each Division/Precinct/Unit has a locked drop box where the completed summonses shall be placed;
 6. Upon issuance of all of the 25 summonses from the Summons Book and once all ***related*** cases have been tried in court, the officer will retain the ***completed*** Summons Books for one year in compliance with General Schedule 17, Records Retention and Disposition Schedule; ***and,***

7. Upon the expiration of *the designated* time, the Summons Books will be turned into the officer's supervisor to be sent to the Records Officer in the Police Department's Central Records Unit for destruction.

Q. Duties of Supervisors for the Summons Books:

1. Supervisors shall issue the Summons Books to the *affected* officers under their command.
2. After the *expiration of the* required one year period, upon the return of a Summons Book(s) by an officer, the affected supervisor shall inspect the Summons Book to ensure that all 25 Green Copies (Officer's Copy) of each summons are in the returning book. The supervisor shall then *locate* the original issuance entry *date* of each Summons Book in the *related logbook*, record the date returned on the used Summons Book(s) by an officer and sign his/her name.
3. The first line supervisor of his/her respective Division/Precinct/Unit will maintain the *summons* logbooks.
4. *All* non-issued summons must be signed and dated by a supervisor.
5. *All affected supervisors are responsible for storing the Summons Books in a secure area.*
6. Affected *supervisors* shall *document all completed returned Summons Books in the summons logbook and either forward the logbooks to the City's Records Retention Manager or forward them* to the Records Officer in the Central Records Unit for disposal in accordance with Schedule 17 of the Records Retention Schedule.

R. *Duty* of Shift Lieutenants or Division *Commanders* or Designees:

Shift Lieutenants/Division *Commanders* or designees shall remind the personnel under their respective commands, on a quarterly basis, to turn in their completed Summons Books, *in compliance with* the one year required Retention Schedule.

S. *Duty of the City-wide Watch Commanders/Night Supervisors:*

City-wide Watch Commanders/*Night Supervisors* will periodically conduct audits to determine if the officers *and their supervisors* are complying with the established procedures for the Virginia Uniform Summons.

T. *Duty of the Policy Compliance Team of the Internal Affairs Division:*

The *Policy Compliance Team of the Internal Affairs Division* will periodically perform random audits of *the* used Summons Books and the Division/Precinct/Unit logbooks to determine if Department members are in compliance with the guidelines outlined in *this* order.

- U. Other Law Enforcement Agencies Requesting to use the Richmond Police Department's (RPD) summonses:

RPD **officers** will not issue pads of Summons Books to **any of the following**: individual security guards, deputy sheriffs, security companies or college/university police agencies, etc. (Summonses that are not numbered can be purchased through private contractors.)

- V. When a RPD Unit receives a call to assist a Security Guard, the Officer will:

1. Review the facts of arrest;
2. Fill out **a** summons for the security guard or registered **security officer** making sure **that** the name of the security guard or officer is **appropriately placed** on the summons in the space marked "Arresting Officer", show the name of the company for which he/she works and the phone number(s) where the security **guard/officer** can be located;
3. Have the security guard/**officer** sign his/her name above where it is printed; and,
4. **If any RPD officer, while assisting** a security guard/**officer allows them to** use his/her Summons Book, **the officer** will strike through **the wording** "Richmond Police Department" at the top of the summons and write in the name of the company employing the **security guard/registered security officer**. The officer will also record the security guard/**officer's** name, the name and the correct address of the company **that** he/she represents on the Green Copy (Officer's Copy) **in the** "Field Notes" **Section**.

- W. Duties of the Central Records Unit's Designated Records Officer:

Upon receipt of the summons logbook containing Page 6 - the Officer's Copy (Green Copies) of the summonses, the designated Records Officer shall:

1. Verify the summons dates being a minimum of 1 year post issuance in accordance with GS17-100803. Summonses received that are less than 1 year from the date of issuance shall be immediately returned to the OIC of the affected Precinct/Division.
2. Shred summonses ensuring confidentiality and privacy.
3. Complete a "Certificate of Destruction" (Form RM-3) with appropriate signatures.
4. Forward original of the Certificate of Destruction to the Library of Virginia.
5. Retain a copy of Certificate of Destruction.

SPECIAL NOTES:

- A. *Effective 7/01/07, there were mandated additions in procedural changes to the Virginia Uniform Summons. Additions include the following: Page 1: Box for HDL LICENSE HOLDER; Allowance for three (3) installment payments of fines within designated time frames; and Box for CIVIL REMEDIAL FEE.*
- B. Any blank old summonses made invalid by these changes shall be returned to the Police Property and Evidence Unit for proper disposition.

V. **FORMS**

- A. *Virginia Uniform Summons*
- B. *Central Criminal Records Exchange Form (CCRE)*
- C. *Arrest Worksheet*
- D. *Incident Based Report (IBR)*
- E. *Division of Motor Vehicles (DMV) Form DIR 13 Enforcement Officer's Drive Record Request*
- F. *Form SP-180 – CCRE Arrest Record*
- G. *Certification of Destruction (Form RM 3)*